(1) SINGLE BENCH

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 3646 /2005

PETITIONER

K.M. Shrivastava,
S/o. Late Shri Ram Das Shrivastava, Aged about 53 years, Presently posted as In-charge Assistant Mining Officer, O/o. District Collectorate Office, District Dhamtari (C.G.)

P.N. No. 3745/05 Presented by Shri ... dated 21/8/05

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through Principal Secretary/ Secretary, Department of Mineral Resources, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

2. Collector (Mining), District Janjgir-Champa (C.G.)

3. Inspector General of Police, Anti Corruption Bureau, Chhattisgarh, Raipur (C.G.)

4. Dy. Superintendent of Police, Anti Corruption Bureau, Bilaspur (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

XI-HC-22

(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 3646 सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.08.2005

Shri Manindra Shrivastava, Sr. Advocate with Shri Afroj Khan, counsel for the petitioner.

Heard on admission.

The petitioner, who is presently working as Assistant Mining Officer (In-charge) at Dhamtari, has filed this writ petition for quashing of the communication dated 13.07.2005 (Annexure-P/2) written by the Inspector General of Police, Anti-Corruption Bureau, Raipur to the Pricipal Secretary, State of Chhattisgarh, Department of Mineral Resources, Raipur. Learned counsel for the petitioner submits that no doubt a criminal case vide crime No. 58/2003 under Sections 7, 13(1)(d) & 13(2) of the Prevention of Corruption Act, 1988 was registered against the petitioner and a charge-sheet has been filed in the Court of Special Judge, Bilaspur vide Special Case No. 08/2005, but the Inspector General of Police (Anti-Corruption Bureau) has no authority to issue such a memo to the concerned secretary for putting the petitioner under suspension, therefore, the impugned memo (Communication dated 13.07.2005) be quashed. He further submits that according to this letter/memo, the authorities may straight way put the petitioner under suspension and apprehending all these, the petitioner has filed this writ petition.

I have perused the contents of the impugned memo.

It appears that a charge-sheet dated 06.07.2005 has been filed against the petitioner under the aforementioned sections of the

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Prevention of Corruption Act, 1988 vide special case No. 08/2005 before the concerned Court. In connection with the aforesaid charge-sheet, the Anti-Corruption Bureau has sent this communication for suspending the petitioner stating therein that if the charge-sheet is filed against any government servant in a Court of law, then under the rule, the government servant should be put under suspension. Though the memo indicates like this, but rules etc. have not been mentioned or quoted in this memo. It is against this communication only, the petitioner has come to this Court.

I have heard learned counsel for the petitioner at length and have also perused the records of the writ petition.

In the opinion of this Court, this Court is not required to interfere in such matter at this stage. The impugned communication, if is classified under the legal sense, is just a request of the prosecution to the concerned authority, which does not binds him to put the petitioner under suspension. For taking departmental action, the State is free to act in accordance with law.

To put a person under suspension or not, is the wisdom of the departmental authority. If the departmental authority in all his wisdom thinks it proper that a person should be suspended and the rules permit such action, there is no necessity of any communication in this regard. This communication may also be treated as an information to the State because it most oftenly happens that criminal cases are registered against the State

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

employees and the charge-sheets are filed but this important fact is not brought to the notice of the concerned higher authority of the department.

In the opinion of this Court, this is not a stage for interfering in such matter. The petition is premature. The impugned letter does not give rise to a cause of action in favour of the petitioner for issuance of a writ of certiorari in this petition and the petition is dismissed at this stage without notice to other side.

It is made clear that this Court has not expressed any opinion on the merits of the case pertaining to the suspension of the petitioner which shall be strictly governed by the statutory provisions.

Sd/-
Sunil Kumar Sinha
Judge

vathi